TITLE 8 DEVELOPMENT CODE

DIVISION 10: SOIL AND WATER CONSERVATION

CHAPTER 3: WIND-BORNE SOIL EROSION.

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810.0305 Statement of Hazardous Condition.

The Board of Supervisors hereby finds and determines that there exists within portions of the County serious and hazardous wind erosion problems creating conditions that affect the health, safety, welfare and property of residents of the County and that such conditions constitute a public nuisance. These conditions exist because of improper and untimely disturbance of the surface or subsurface of the land, the soil of which is coarse textured and of a sandy nature, and because of the character and the presence of strong prevailing winds, seasonal and otherwise, which progressively erode the land and blow soil in substantial quantity onto public and private property.

The Board of Supervisors further finds that these conditions are more prevalent and more in need of immediate correction within the boundaries as described by this chapter.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0310 Prevention of Dust Storms.

To conserve the natural resources within the areas described in Section 810.0320 of this chapter, and to minimize the injurious effects of dust storms, the owner and all persons in possession of real property within said area shall prevent dust blowing therefrom, as nearly as can be done by the taking of reasonable measures and means.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0315 Enforcement.

The Agricultural Commissioner will be responsible for the enforcement of this chapter. Subject to the restrictions in this Section regarding constitutional freedoms and laws respecting rights of privacy, the Agricultural Commissioner, and such County enforcement officers the Agricultural Commissioner designates, shall have authority, at all reasonable times, to enter upon any property to investigate for violations of this Code, to detain for purposes of investigation, to issue temporary stopwork orders, or to issue a citation to any person committing any misdemeanor or an infraction offense under this chapter within his or her presence. The inspection or abatement of any building or private area of property shall be made with the consent of the owner or occupant of the property or, if consent is refused, with a warrant duly issued pursuant to Title 13 (beginning with Section 1822.50) of Part 3 of the California Code of Civil Procedure. However, in the event of an emergency affecting the public health or safety, an inspection or abatement may be made without consent or the issuance of a warrant.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0320 Subject Areas

The following areas of the County shall be subject to this chapter:

(a) Unincorporated Area Near Rancho Cucamonga. Beginning at the north quarter corner of Section 26, Township 1 north, Range 7 west, San Bernardino Meridian, said corner being also the center line intersection of Hermosa and Wilson Avenues.

Thence north along said center line of Hermosa Avenue and its prolongation to the southerly boundary of the San Bernardino National Forest;

Thence easterly along said southerly boundary, following all of its various courses to the center line of Interstate 15:

Thence southwesterly along said center line to the center line of East End Avenue.

Thence south along said center line of East End Avenue and its prolongation to the boundary of San Bernardino County.

Thence west along said County boundary and continuing along said County boundary, following all of its various courses to the center line of State Highway 71;

Thence northerly along said center line of State Highway 71 to the center line of Euclid Ave.;

Thence northerly along said center line of Euclid Ave. to the north quarter corner of Section 30, Township 1 north, Range 7 west, said corner being also the centerline intersection of Euclid Ave. and 24th Street;

Thence easterly along said center line of 24th street to the point of beginning.

(b) Unincorporated Area in Wonder Valley Fire and Road District. That territory commonly known as Wonder Valley and more particularly described as follows:

T2N, R9E, Sections 25 and 36; T2N, R9E, Sections 1, 12, 13 and 24; T1N, R10E, Sections 1 through 25; T1N, R11E, Sections 1 through 30; and T1N, R12E, Sections 1 through 30.

- (c) Other Unincorporated Territory. On recommendation of the Agricultural Commissioner and with the approval of the Board of Supervisors, additional unincorporated areas of the County can be made subject to this chapter, through amendment of this chapter, when conditions exist as stated in Section 810.0305, above.
- (d) Territory Within City Limits. The Agricultural Commissioner may enforce the provisions of this chapter within the city limits of any City located in the County upon adoption, by the governing body of such City, of all provisions of this chapter (excluding Section 810.0320), by designation of the geographical area within the City to which the chapter shall apply, and by such City contracting for such enforcement by the Agricultural Commissioner. The fee for such enforcement shall be set forth in the Schedule of Fees, Section 16.021(c) of Title 1 of this Code.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0325 Permit Requirement.

- (a) It shall be unlawful for any person, firm or corporation, or any agent thereof who owns or is in possession or control of land, or is using land, to disturb the surface or subsurface of land by excavating, leveling, cultivating, discing, plowing, blading, removing residues, natural or planted tree, vine or root crops, or by distributing or spreading a substantial quantity of similar soil on said land, or to aggravate said erosion thereon within the subject area whether by any of the activities described above, or by the recreational use of off-road vehicles at any time without having first obtained a valid permit therefore and having complied with the terms of said permit as provided for in this chapter.
- (b) It shall be unlawful for any persons, firm, corporation, or any agent thereof who obtains a valid permit to fail to comply with the terms of said permit. A violation of the terms of this chapter or the permit may be found without present evidence of blowing sand or soil erosion.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0330 Permit Procedures.

- (a) Application. Application for the permit required by this chapter shall be made in writing to the Agricultural Commissioner on forms provided by the County for this purpose. The application shall set forth the applicant's name, address and phone number, the location and Assessor's Parcel Number of the property, a description of the cause and purpose of the soil disruption, protective measures to be used by the applicant, the approximate starting and completion dates of the soil disruption and building construction/landscaping, the name and telephone number of the responsible person during windy periods, and such other information as is required to enable the Agricultural Commissioner to fix and prescribe appropriate conditions which will prevent or minimize wind erosion of the permittee's soil.
- (b) Permit Conditions. The permit shall be subject to such conditions as the Agricultural Commissioner may require to assure that surface protection is provided prior to, during and/or after the time of the disturbance of the surface or subsurface of the land. In order to prevent the soil on said land from being eroded by wind and blown onto public roads or other public or private property, the permittee's obligations under the permit shall continue in force and effect, regardless of whether the permit has been renewed as required by Section 810.0335, until the Agricultural Commissioner has notified the permittee in writing that the permittee's obligations under the permit are released. Protective measures required by the Agricultural Commissioner shall be provided by means of agricultural measures, or any other effective method or combination of methods of holding the soil in place.
- (c) Appeal from Denial of Permit or Permit Conditions. Any applicant may appeal to the Soil Erosion and Dust Prevention Appeals Board the decision of the Agricultural Commissioner to deny a permit or to impose conditions on the issuance of a permit. The appeal must be filed in writing within ten (10) working days of the Agricultural Commissioner's action and shall be filed with the Soil Erosion and Dust Prevention Appeals Board. The Agricultural Commissioner shall

inform the applicant in writing of the Agricultural Commissioner's decision, of the right to an appeal, and of the ten (10) day deadline for filing such an appeal.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0335 Permit Fees and Renewals.

The fee for each permit issued shall be set forth in the Schedule of Fees, Section 16.021(c) of Title 1 of this Code. Annual renewal and payment of appropriate fees are required until the permittee's obligations under the permit have been released by the Agricultural Commissioner under Section 810.0330(b).

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0340 Permit Exemptions.

A permit will not be required to disturb the surface or subsurface of the land under the following circumstances; however, prevention of blowing dust as stated in Section 810.0310, above, will still apply:

- (a) When such activities are required by another ordinance, statute, rule or regulation;
- (b) When necessary to grade, trench, or otherwise install, repair or replace utility services within the boundaries of utility or public rights-of-way when such activities are completed within seventy-two (72) hours;
 - (c) When the disturbance or proposed activity is confined to an area of one (1) acre or less.
 - (d) When a viticulturalist properly utilizes a Noble blade to control weed growth within a vineyard;
 - (e) When the soil disturbance occurs as an agricultural practice within an established Agricultural Preserve.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0345 Establishment and Operation of Soil Erosion and Dust Prevention Appeals Board.

- (a) The Soil Erosion and Dust Prevention Appeals Board shall consist of three persons, and shall be comprised as follows: One member shall be an employee of the Office of the Agricultural Commissioner, but not any employee who acted on the subject permit request of the appellant; one member shall be an employee of the General Services Group; and one member shall be a designee of the Inland Empire West Resource Conservation District.
- (b) A representative of the Soil Erosion and Dust Prevention Appeals Board shall, upon receipt of an appeal filed pursuant to Section 810.0330 of this chapter, set the matter for hearing before the Soil Erosion and Dust Prevention Appeals Board and notify the appellant of the date set for such hearing, at least fifteen (15) days prior to such date. If the appellant resides outside the County, the above period of notice shall be at least twenty-five (25) days. The Soil Erosion and Dust Prevention Appeals Board shall act on the appeal and its determination shall be conclusive. Notification of the Board's determination shall be mailed to the appellant.

Readopted Ordinance 3341 (1989); Amended Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0350 Abatement of Hazardous Conditions.

- (a) Notice of Abatement. In case any land presents a hazardous condition that may affect the health, safety and welfare of neighboring residents (because of the condition of the land with regard to loose soil and windy conditions), the owners of record will be notified in writing by first class mail of such conditions. If these conditions are not corrected within thirty (30) days of the mailing of such notice, the Agricultural Commissioner may order such conditions to be corrected as reasonably and economically as possible in accordance with the discretion of the Agricultural Commissioner. However, when time is of the essence and emergency action is necessary to put into effect these protective provisions, the Agricultural Commissioner may take immediate steps to abate the hazardous soil erosion condition.
- (b) Assessment of Abatement Costs. The County Auditor shall pay the cost of such abatements as may be conducted by the County from the funds of the Agricultural Commissioner. The total cost of each such abatement shall be computed and an administrative fee of twenty percent (20%) of such cost shall be added thereto. A bill for the entire sum of the costs and administrative fee shall be mailed to the owner of record of the subject land as determined by and at the address set forth on records maintained by the County Assessor's office and a copy shall be sent to the County Auditor. The bill shall include an itemized statement covering the work necessary for such abatement of the hazardous condition. If the record owner of the land or his agent does not pay the bill within thirty (30) days after said mailing, the Agricultural Commissioner shall certify to the Auditor the demands remaining unpaid on said bill together with any information required by law in such cases. The County Auditor shall cause the amount of the same to be entered on the tax roll as a special assessment and tax lien on the property from which abatement of the hazardous condition was accomplished. The special assessment shall be included on the next succeeding tax statement. Thereafter, the amounts of the assessment shall be collected at the same time and in the same manner as County taxes are collected, and shall be subject to the same penalties and the same procedure and sale in cases of delinquencies as provided for ordinary taxes.

- (c) Cancellation or Refund of Abatement Assessments. All or any portion of such assessment entered, shall, on order of the Board of Supervisors, be cancelled by the Auditor if uncollected, or refunded by the County Treasurer under the order of the Board of Supervisors, if the assessment was entered, charged or paid:
 - (1) More than once;
 - (2) Through clerical error;
- (3) Through the error of the Board of Supervisors or of the Agricultural Commissioner in respect to any material fact, including the case where the expense records indicate the County abated a hazardous condition on the property, but in fact no such hazardous condition existed on the property or the County did not abate the hazardous condition existing on the property;
 - (4) Illegally;
- (5) On property acquired after the lien by the State or any city, county, school district or other public entity, and because of such public ownership the property is not subject to sale for delinquent taxes.

No order for refund under the foregoing shall be made except on a claim verified by the person who paid the special assessment or the representative of such person or his estate, and said claim is filed within three (3) years after making the payment to be refunded.

Adopted Ordinance 3363 (1989); Amended Ordinance 3534 (1993)

810.0355 Temporary Stop Work Orders.

- (a) Issuance. The Agricultural Commissioner may issue a temporary stop work order and the subject soil disturbing operation shall immediately be stopped, whether a permit has been issued or not, when:
- (1) A permit has been issued, but not all of the permit requirements have been complied with. The stop work order may require that all work cease until all the permit requirements have been met.
- (2) Operations are in progress, with a permit or not, and weather conditions are such that substantial dust is being carried into the air. The stop work order may require that all work cease until the current dust air pollution is abated.
- (3) Operations are in progress, regardless of weather conditions, and a soil disturbance permit has not been issued.
- (b) Appeal. The stop work orders issued pursuant to the provisions of this section shall not be subject to an appeal.

Adopted Ordinance 3363 (1989); Amended Ordinance 3398 (1990); Amended Ordinance 3534 (1993)

810.0360 Penalty for Violation.

Unless otherwise provided, any person, firm, company or corporation violating the provisions of this chapter shall be guilty of an infraction or misdemeanor as hereafter specified, and each day or portion thereof such violation is in existence shall be a new and separate offense.

- (a) Any person so convicted shall be:
- (1) Guilty of an infraction offense and punished by fine not exceeding \$100.00 and not less than \$50.00 for a first violation.
- (2) Guilty of an infraction offense and punished by a fine not exceeding \$200.00, but not less than \$100.00 for a second violation.
- (b) The third and any additional violations shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding \$1,000.00 and not less than \$500.00 or six (6) months in jail, or both.
 - (c) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.
- (d) Payment of any penalty herein provided shall not relieve a person, firm, corporation, or other entity from responsibility for correcting the condition resulting from the violation.

Adopted Ordinance 3363 (1989); Amended Ordinance 3534 (1993)